

(i) A pick is designated in the Special Provisions and the pick of the damaged production exceeds this designation; or

(ii) A pick is not designated in the Special Provisions and deficiencies in quality, in accordance with the United States Standards for Beans, result in dry beans not meeting the grade requirements for U.S. No. 2 (grades U.S. No. 3 or worse) because the beans are damaged or badly damaged; or

(iii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us;

(iv) With regard to deficiencies in quality (except test weight, which may be determined by our loss adjuster), the samples are analyzed by:

(A) A grader licensed under the United States Agricultural Marketing Act or the United States Warehouse Act;

(B) A grader licensed under State law and employed by a warehouse operator who has a storage agreement with the Commodity Credit Corporation; or

(C) A grader not licensed under State law, but who is employed by a warehouse operator who has a commodity storage agreement with the Commodity Credit Corporation and is in compliance with State law regarding warehouses; and

(v) With regard to substances or conditions injurious to human or animal health, the samples are analyzed by a laboratory approved by us.

(4) Dry bean production that is eligible for quality adjustment, as specified in sections 13(e) (2) and (3), will be reduced:

(i) If a conversion factor is designated by the Special Provisions, by multiplying the number of pounds of eligible production by the conversion factor designated in the Special Provisions for the applicable grade or pick; or

(ii) If a conversion factor is not designated by the Special Provisions as follows:

(A) The market price of the qualifying damaged production and the local market price will be determined on the earlier of the date such quality adjusted production is sold

or the date of final inspection for the unit. If a local market price is not available for the insured crop year, the current years' maximum price election available for the applicable type will be used. The price for the qualifying damaged production will be the market price for the local area to the extent feasible. We may obtain prices from any buyer of our choice. If we obtain prices from one or more buyers located outside your local market area, we will reduce such prices by the additional costs required to deliver the dry beans to those buyers. Discounts used to establish the net price of the damaged production will be limited to those that are usual, customary, and reasonable. The price of the damaged production will not be reduced for:

(1) Moisture content;

(2) Damage due to uninsured causes; or

(3) Drying, handling, processing, including trading tare for grade to obtain a higher grade and price, or any other costs associated with normal harvesting, handling, and marketing of the dry beans; except, if the price of the damaged production can be increased by conditioning, we may reduce the price of the production after it has been conditioned by the cost of conditioning but not lower than the value of the production before conditioning;

(B) The value per pound of the damaged or conditioned production will be divided by the local market price to determine the quality adjustment factor; and

(C) The number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds (if appropriate)) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

#### 14. Prevented Planting

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

[62 FR 6105, Feb. 11, 1997, as amended at 62 FR 63633, Dec. 2, 1997; 62 FR 65175, Dec. 10, 1997; 67 FR 55690, Aug. 30, 2002]

#### § 457.151 Forage seeding crop insurance provisions.

The Forage Seeding Crop Insurance Provisions for 2003 and succeeding crop years are as follows:

## Federal Crop Insurance Corporation, USDA

§457.151

### FCIC Policies

#### DEPARTMENT OF AGRICULTURE

#### Federal Crop Insurance Corporation

#### *Reinsured Policies*

(Appropriate title for insurance provider)

#### Both FCIC and Reinsured Policies:

#### *Forage Seeding Crop Provisions*

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

#### 1. Definitions

*Crop year*—The period within which the planting is or normally would become established and shall be designated by the calendar year in which the planting is made for spring planted acreage and the next succeeding calendar year for fall planted acreage.

*Fall planted*—A forage crop seeded after June 30.

*Forage*—Planted perennial alfalfa, perennial red clover, perennial grasses, or a mixture thereof, or other species, as shown in the actuarial documents.

*Good farming practices*—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce a normal stand, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

*Harvest*. Severance of the forage plant from its roots. Acreage that is only grazed will not be considered harvested.

*Normal stand*—A population of live plants per square foot that meets the minimum required number of plants as shown in the Special Provisions.

*Nurse Crop (companion crop)*—A crop seeded into the same acreage as another crop, that is intended to be harvested separately, and that is planted to improve growing conditions for the crop with which it is grown.

*Planted acreage*—In addition to the provisions in section 1 of the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted, unless otherwise provided by the Special Provisions, actuarial documents, or written agreement.

*Replanting*—Performing the cultural practices necessary to prepare the land for replacing of the forage seed and then replacing the forage seed in the insured acreage with

the expectation of producing a normal stand. Replacing new seed into an existing damaged stand, which results in a reduced seeding rate from the original seeding rate, will not be considered replanting.

*Sales closing date*—In lieu of the definition contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both fall seeded and spring seeded practices for the insured crop and you plant any insurable fall seeded acreage, you may not change your crop insurance coverage after the fall sales closing date for the fall seeded practice.

*Spring planted*—A forage crop seeded before July 1.

#### 2. Unit Division

A basic unit, as defined in section 1 of the Basic Provisions, will also be divided into additional basic units by spring planted and fall planted acreage.

#### 3. Amounts of Insurance

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8), you may only select one coverage level and the corresponding amount of insurance designated in the actuarial documents for the applicable type and practice for all the forage seeding in the county that is insured under this policy. The amount of insurance you choose for each type and practice must have the same percentage relationship to the maximum amount of insurance offered by us for each type and practice. For example, if you choose 100 percent of the maximum amount of insurance for a specific type and practice, you must also choose 100 percent of the maximum amount of insurance for all other types and practices.

(b) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8), do not apply to forage seeding.

#### 4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date for counties with a March 15 cancellation date and April 30 preceding the cancellation date for all other counties.

#### 5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
California, Nevada, New Hampshire, New York, Pennsylvania, South Dakota counties for which the Special Provisions designate both fall and spring final planting dates, and Vermont.	July 31.
South Dakota counties for which the Special Provisions designate only a spring final planting date, and all other states.	March 15.

#### 6. Report of Acreage.

In lieu of the provisions of section 6(a) of the Basic Provisions, a report of all insured acreage of forage seeding must be submitted on or before each forage seeding acreage report date specified in the Special Provisions.

#### 7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the forage in the county for which a premium rate is provided by the actuarial documents:

- (a) In which you have a share;
- (b) That is planted during the current crop year, or replanted during the calendar year following planting, to establish a normal stand of forage;
- (c) That is not grown with the intent to be grazed, or not grazed at any time during the insurance period; and
- (d) That is not interplanted with another crop, except nurse crops, unless allowed by the Special Provisions or by written agreement.

#### 8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions:

- (a) In California counties Lassen, Modoc, Mono, Shasta, Siskiyou and all other states, any acreage of the insured crop damaged before the final planting date, to the extent that such acreage has less than 75 percent of a normal stand, must be replanted unless we agree that it is not practical to replant; and
- (b) In California, unless otherwise specified in the Special Provisions, any acreage of the insured crop damaged anytime during the crop year to the extent that such acreage has less than 75 percent of a normal stand must be replanted unless it cannot be replanted and reach a normal stand within the insurance period.

#### 9. Insurance Period

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8) regarding when insurance ends, forage seeding insurance will end at the earliest of:

- (a) Total destruction of the insured crop on the unit;
- (b) The initial harvest of the unit, if a late harvest date is not listed in the Special Provisions;

(c) The first harvest after the late harvest date, if a late harvest date is specified in the Special Provisions. You may harvest the crop as often as practical in accordance with good farming practices on or before the late harvest date.

- (d) Final adjustment of a loss on a unit;
- (e) Abandonment of the insured crop;
- (f) The date grazing commences on the insured crop; or

(g) The following calendar dates:

- (1) During the calendar year following the year of seeding for:

- (i) Fall planted acreage in all California counties except Lassen, Modoc, Mono, Shasta and Siskiyou—November 30;
- (ii) Spring planted acreage in Lassen, Modoc, Mono, Shasta and Siskiyou Counties California, Colorado, Idaho, Nebraska, Nevada, Oregon, Utah and Washington—April 14;
- (iii) Spring planted acreage in all other states—May 21;
- (iv) Fall planted acreage in Lassen, Modoc, Mono, Shasta and Siskiyou Counties California and all other states—October 15;

(2) During the calendar year of seeding for spring planted acreage in all California counties except Lassen, Modoc, Mono, Shasta and Siskiyou—November 30.

#### 10. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes that result in loss of, or failure to establish, a stand of forage that occur during the insurance period:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

#### 11. Replanting Payment

In lieu of the provisions contained in section 13 of the Basic Provisions:

(a) A replanting payment is allowed if:

(1) In California, unless specified otherwise in the Special Provisions, acreage planted to the insured crop is damaged by an insurable cause of loss occurring within the insurance period to the extent that less than 75 percent of a normal stand remains and the crop can reach maturity before the end of the insurance period;

(2) In Lassen, Modoc, Mono, Shasta, Siskiyou Counties, California, and all other states:

(i) A replanting payment is allowed only whenever the Special Provisions designate both fall and spring final planting dates;

(ii) The insured fall planted acreage is damaged by an insurable cause of loss to the extent that less than 75 percent of a normal stand remains;

(iii) It is practical to replant;

(iv) We give written consent to replant; and

(v) Such acreage is replanted the following spring by the spring planting date.

(b) The amount of the replanting payment will be equal to 50 percent of the amount of indemnity determined in accordance with section 13 unless otherwise specified in the Special Provisions.

(c) No replanting payment will be made on acreage for which one replanting payment has been allowed.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

#### 12. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§457.8), the representative samples of the crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after tilling of the balance of the unit is completed.

(b) In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§457.8), you must give us written notice if, during the period before destroying the crop on any fall planted acreage that is damaged, you decide to replant the acreage by the spring final planting date.

#### 13. Settlement of Claim.

(a) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

(1) Multiplying the insured acreage of each type and practice by the amount of insurance for the applicable type and practice;

(2) Totaling the results in section 13(a)(1);

(3) Multiplying the total acres with an established stand for the insured acreage of each type and practice in the unit by the amount of insurance for the applicable type and practice;

(4) Totaling the results in section 13(a)(3);

(5) Subtracting the result in section 13(a)(4) from the result in section 13(a)(2); and

(6) Multiplying the result in section 13(a)(5) by your share.

*Example:* Assume you have 100 percent share in 30 acres of type A forage in the unit, with an amount of insurance of \$100.00 per acre. At the time of loss, the following findings are established: 10 acres had a remaining stand of 75 percent or greater. You also have 20 acres of type B forage in the unit, with an amount of insurance of \$90.00 per acre. 10 acres had a remaining stand of 75 percent or greater. Your indemnity would be calculated as follows:

1. 30 acres × \$100.00 = \$3,000 amount of insurance for type A; 20 acres × \$90.00 = \$1,800 amount of insurance for type B;

2. \$3,000 + \$1,800 = \$4,800 total amount of insurance;

3. 10 acres with 75% stand or greater × \$100.00 = \$1,000 production to count for type A; 10 acres with 75% stand or greater × \$90.00 = \$900 production to count for type B;

4. \$1,000 + \$900 = \$1,900 total production to count;

5. \$4,800 – \$1,900 = \$2,900 loss;

6. \$2,900 × 100 percent share = \$2,900 indemnity payment.

(b) The acres with an established stand will include:

(1) Acreage that has at least 75 percent of a normal stand;

(2) Acreage abandoned or put to another use without our prior written consent;

(3) Acreage damaged solely by an uninsured cause; or

(4) Acreage that is harvested and not reseeded.

(c) The amount of indemnity on any spring planted acreage determined in accordance with section 13(a) will be reduced 50 percent if the stand is less than 75 percent but more than 55 percent of a normal stand.

#### 14. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

[62 FR 13291, Mar. 20, 1997, as amended at 62 FR 65175, Dec. 10, 1997; 65 FR 3784, Jan. 25, 2000; 65 FR 11457, Mar. 3, 2000; 66 FR 42730, Aug. 15, 2001; 66 FR 53076, Oct. 19, 2001; 67 FR 65030, Oct. 23, 2002]

EDITORIAL NOTE: At 62 FR 65175, Dec. 10, 1997, §457.151 was amended in section 1 by revising the definition “Sales closing date”, however, this definition was not included

## § 457.152

when this section was added at 62 FR 13291, Mar. 20, 1997.

### § 457.152 Hybrid seed corn crop insurance provisions.

The Hybrid Seed Corn Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

#### FCIC Policies

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

#### Reinsured Policies

(Appropriate title for insurance provider)

Both FCIC and Reinsured policies

#### Hybrid Seed Corn Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions, (§457.8) with (1) controlling (2), etc.

#### 1. Definitions

**Adjusted yield.** An amount determined by multiplying the county yield by the coverage level factor.

**Amount of insurance per acre.** A dollar amount determined by multiplying the adjusted yield by the price election you select and subtracting any minimum guaranteed payment, not to exceed the total compensation specified in the hybrid seed corn processor contract. If your hybrid seed corn processor contract contains a minimum guaranteed payment that is stated in bushels, we will convert that value to dollars by multiplying it by the price election you selected.

**Approved yield.** In lieu of the definition contained in the Basic Provisions, an amount FCIC determines to be representative of the yield that the female parent plants are expected to produce when grown under a specific production practice. FCIC will establish the approved yield based upon records provided by the seed company and other information it deems appropriate.

**Bushel.** Fifty-six pounds avoirdupois of shelled corn, 70 pound avoirdupois of ear corn, or the number of pounds determined under the seed company's normal conversion chart when that chart is used to determine the approved yield and the claim for indemnity.

**Certified seed test.** A warm germination test performed on clean seed according to specifications of the "Rules for Testing Seeds" of the Association of Official Seed Analysts.

**Commercial hybrid seed corn.** The offspring produced by crossing a male and female parent plant, each having a different genetic

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character. This offspring is the product intended for use by an agricultural producer to produce a commercial field corn crop for grain.

**County yield.** An amount contained in the actuarial documents that is established by FCIC to represent the yield that a producer of hybrid seed corn would be expected to produce if the acreage had been planted to commercial field corn.

**Coverage level factor.** A factor contained in the Special Provisions to adjust the county yield for commercial field corn to reflect the higher value of hybrid seed corn.

**Dollar value per bushel.** An amount that determines the value of any seed production to count. It is determined by dividing the amount of insurance per acre by the result of multiplying the approved yield by the coverage level percentage, expressed as a decimal.

**Female parent plants.** Corn plants that are grown for the purpose of producing commercial hybrid seed corn and have had the stamens removed or are otherwise male sterile.

**Field run.** Commercial hybrid seed corn production before it has been dried, screened, or processed.

**Good farming practices.** In addition to the definition contained in the Basic Provisions, good farming practices include those practices required by the hybrid seed corn processor contract.

**Harvest.** Combining, threshing or picking ears from the female parent plants to obtain commercial hybrid seed corn.

**Hybrid seed corn processor contract.** An agreement executed between the hybrid seed corn crop producer and a seed company containing, at a minimum:

(a) The producer's promise to plant and grow male and female parent plants, and to deliver all commercial hybrid seed corn produced from such plants to the seed company;

(b) The seed company's promise to purchase the commercial hybrid seed corn produced by the producer; and

(c) Either a fixed price per unit of measure (bushels, hundredweight, etc.) of the commercial hybrid seed corn or a formula to determine the value of such seed. Any formula for establishing the value must be based on data provided by a public third party that establishes or provides pricing information to the general public, based on prices paid in the open market (e.g., commodity futures exchanges), to be acceptable for the purpose of this policy.

**Inadequate germination.** Germination of less than 80 percent of the commercial hybrid seed corn as determined by using a certified seed test.

**Insurable interest.** Your share of the financial loss that occurs in the event seed production is damaged by a cause of loss specified in section 10.